



21

30 Bank Street
PO Box 350
New Britain
CT 06050-0350
06051 for 30 Bank Street
(860)223-4400
fax (860)223-4488

Testimony of Sharon Wicks Dornfeld
Vice Chair, Connecticut Bar Association Family Law Section
House Bill 5815 *An Act Concerning Divorce Mediation*
Select Committee on Children
February 22, 2011

Representative Urban and members of the Committee, I have the honor to serve as Vice Chair of the Family Law Section of the Connecticut Bar Association. I appear before you today on behalf of the Family Law Section to urge you **not to recommend passage** of House Bill 5815. Our Executive Committee voted unanimously to oppose this bill because of concerns about the substantive implications of mandatory mediation in every dissolution case with minor children as well as the practical difficulties in implementing the plan.

Please understand that members of our section wholeheartedly support mediation and other forms of alternative dispute resolution in custody cases. However, every case is fact specific, and many cases simply are not suitable for mediation. In particular, cases in which there is a history of spousal abuse, or child abuse, or active substance abuse, or where a parent has abandoned the children certainly are not good candidates for resolution by mediation at the outset of the action. Indeed, in some of those cases, both forced interaction in mediation or a delay if there is no mediation may actually place the parties or children involved in danger.

Members of our section also are concerned that this bill may not pass constitutional muster, as it applies only to parents involved in dissolution actions, and does not require never-married parents to mediate their own custody disputes. Further, it does not require parties to a dissolution action without minor children to mediate property and financial issues.

Finally, there are a number of practical impediments to implementing this scheme. The proposed language makes mediation mandatory, yet Subsection (a) of Section 1 of 46b-53 makes the establishment of the mediation services entirely discretionary with the Chief Court Administrator. It is not at all clear that the financial constraints faced by the Judicial Department permit the establishment of this mediation program in every judicial district. Nor is there any definition in the statute of how the program will be administered, who the mediators will be, which issues must be mediated, or how many times the parents would be required to meet in order to satisfy the requirements of the proposed language. Even assuming that a mediation program is established in every judicial district, it is unlikely that funding would be available to meet the demand of serving the enormous number of couples attempting to mediate.

Incidentally, parents who wish to invoke the services of a mediator without charge already may take advantage of the very fine services offered by the Family Relations Division of the Superior Court.

For all these reasons, the Family Law Section of the Connecticut Bar Association opposes H.B. 5815. I would be pleased to answer any questions you may have.